



THE UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 09 2002

In re application of: Morishita et al.

Art Unit: 1635

Application No.: 09/869,475

TECH CENTER 1600/290

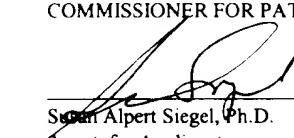
Filed: June 28, 2001

CERTIFICATE OF MAILING

For: GENE THERAPY FOR DIABETIC
ISCHEMIC DISEASE

I hereby certify that this paper and the documents referred to as being attached or enclosed herewith are being deposited with the United States Postal Service on June 25, 2002 as First Class Mail in an envelope addressed to: BOX NON-FEE AMENDMENT, COMMISSIONER FOR PATENTS, WASHINGTON, D.C. 20231.

Examiner: Brian A. Whiteman



Susan Alpert Siegel, Ph.D.
Agent for Applicant

Date: June 25, 2002

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BOX NON-FEE AMENDMENT
COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

Enclosed is a Response to Restriction Requirement for the above application. The fee has been calculated as shown below.

CLAIMS AS AMENDED					
For	No. after amendment	No. paid for previously	Present Extra	Rate	Fee
Total Claims	21	- 21*	= 0	\$9.00	\$ 0.00
Indep. Claims	3	- 3**	= 0	\$42.00	\$ 0.00
Mult. Dep. Claims Fee (if not previously paid)					\$140.00
One-month Extension of Time					\$55.00
Two-month Extension of Time					\$200.00
Three-month Extension of Time					\$460.00
TOTAL ADDITIONAL FEE FOR THIS AMENDMENT					\$0.00

* greater of twenty or number for which fee has been paid.

** greater of three or number for which fee has been paid.

No additional fee is required.

- Please charge any fees that may be required in connection with filing this amendment and any extension of time, or credit any overpayment, to Deposit Account No. 02-4550. A copy of this sheet is enclosed.
- Please return the enclosed postcard to confirm that the items listed above have been received.

Respectfully submitted,

KLARQUIST SPARKMAN, LLP

By


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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Morishita and Ogihara

Application No. 09/869,475

Filed: June 28, 2001

For: GENE THERAPY FOR DIABETIC ISCHEMIC
DISEASE

Examiner: Brian A. Whiteman

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WASHINGTON, D.C. 20231

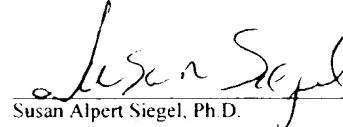
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Application Number 09 869,475

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Art Unit: 1635

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RESPONSE TO RESTRICTION REQUIREMENT

This response is submitted in reply to the Office action, dated May 31, 2002, for which a one-month period for reply was set, making a response due on or before June 30, 2002.

REMARKS

In response to the request to elect a species of a generic invention, Applicants provisionally elect species (a) diabetic lower limb ischemic disease. As noted in the Office action on page 2, the claims will be restricted only if no generic claim is finally held to be allowable.

Applicants respectfully disagree with the requirement to elect a single species. Applicants note that the International Searching Authority found unity of invention, as evidenced by the International Search Report, a copy of which is attached as Exhibit A. Moreover, Applicants submit that the presently pending claims are all directed to the treatment of diabetic ischemia (a single conceptual disorder) and the location of the diabetes-related ischemia (e.g., lower limb, nerve or myocardium) is *not* sufficient to warrant separation into species, nor to require a division of the claims.